

## Questions and Answers About Revised HIV Rules On Testing, Counseling, Partner Notification and Related Subjects (Effective June 18, 2005)

### What purpose did the State Board of Health expect to achieve with these rule changes?

The revised rules are intended to accomplish two purposes:

1. to increase the proportion of HIV-infected persons who know their HIV status; and
2. to increase the proportion of persons exposed to HIV who are informed of that exposure.

### What are the requirements for obtaining patient informed consent for HIV testing?

The rules clarify the past state policy that consent for HIV testing must be obtained, and the patient's consent may either be verbal or written.

The new rules eliminate language requiring "separate" informed consent for HIV testing; however, before HIV testing is performed, patients must be explicitly told that this test is recommended and agree to HIV testing.

Receipt of consent for HIV testing must be documented. This may be in the person's regular medical record, in another record of services provided, or by written consent. (WAC 246-100-207)

### What information must be provided to a patient prior to testing for HIV?

Unless a person has been previously tested for HIV and declines receipt of information, all persons to be tested for HIV should be informed about:

- The benefits of learning HIV status and the potential dangers of the disease;
- The ways in which HIV is transmitted and ways in which it can be prevented;
- The meaning of HIV test results and the importance of obtaining test results; and
- As appropriate, the availability of anonymous HIV testing and the differences between anonymous testing and confidential testing. (WAC 246-100-207). For example, anonymous testing may not be a medically appropriate option for a patient presenting with signs or symptoms of HIV infection.

The Department of Health is in the process of developing sample materials to meet this requirement. When available, a notice will be posted on the HIV website:

[http://www.doh.wa.gov/cfh/HIV\\_AIDS/Prev\\_Edu/HIV\\_Policy\\_Review.htm](http://www.doh.wa.gov/cfh/HIV_AIDS/Prev_Edu/HIV_Policy_Review.htm)

### How have HIV pre-test counseling requirements been changed?

Any person requesting pre-test counseling and any person defined as at increased risk for HIV by the Centers for Disease Control and Prevention should be offered or referred for pre-test counseling. A person who declines pre-test counseling may not be denied HIV testing. (WAC 246-100-207)

The detailed and prescriptive Board rules for the content of pre-test counseling that were instituted over 15 years ago have been eliminated. The new rule references the Centers for Disease Control and Prevention's *Revised Guidelines for HIV Counseling, November 2001* for guidance. (WAC 246-100-209)

The revised rules require a “client-centered” approach, meaning:

- Counseling must be based on an assessment of the individual patient’s risk;
  - The counselor should help the client set realistic behavior change goals that would reduce the risk of transmitting or acquiring HIV; and
  - The counselor should create opportunities to build appropriate risk reduction skills.
- (WAC 246-100-209)

CDC’s *Revised Guidelines for HIV Counseling, November 2001* can be obtained at:

<http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5019a1.htm>

*Under what circumstances should HIV post-test counseling be provided? For whom?*

All persons tested for HIV should be offered an opportunity to receive post-test counseling. If the individual to be counseled tests positive for HIV infection, post-test counseling must be provided or arranged. (WAC 246-100-209)

*What if a person who tested positive for HIV infection fails to return for the test results?*

In the event that an individual has a confidential test and tests positive, but fails to return for post-test counseling, the health care provider must provide the name of the individual and any known information that could help locate the individual to the local health officer. The health officer will follow up to assure that post-test counseling and partner notification assistance is provided. (WAC 246-100-207)

*What changes were made to the rules regarding notification of sexual or needle-sharing partners of persons with HIV?*

The rules allow the local health official to directly contact a person newly reported with HIV infection for the purpose of offering partner notification assistance after consultation with the principal health care provider. (WAC 246-100-072)

*May a principal health care provider take responsibility for partner notification?*

The principal health care provider may take responsibility for partner notification based on a consultation with the local health officer. (WAC 246-100-072)

Providers accepting partner notification responsibility must assure these efforts are carried out as described in WAC 246-100-072.

*Are there guidelines or guidance that must be followed in the provision of partner notification services?*

Whether performed by the local health official or the principal health care provider, partner notification services should be provided in accordance with HIV Partner Counseling and Referral Services Guidance as published by the Centers for Disease Control and Prevention, December 1998. (WAC 246-100-072)

The guidance is available at: <http://www.cdc.gov/hiv/pubs/pcrs.htm>

*Are there HIV testing requirements for a person being diagnosed with another sexually transmitted disease (STD)?*

Principal health care providers are required to offer and encourage HIV testing for a person being diagnosed with a new STD. The patient is not required to accept HIV testing. (WAC 246-100-208)

*Does a person previously diagnosed with HIV infection require additional counseling?*

A health care provider is required to provide additional prevention counseling for a person with HIV or other infectious STD as appropriate to the individual patient. (WAC 246-100-202)

A person previously diagnosed with HIV who subsequently contracts gonorrhea should be counseled on the need and the responsibility to take measures to prevent transmission of HIV. Further prevention counseling on sexual risk would not usually be appropriate for a person who is sexually abstinent.

*What are the new requirements regarding rapid HIV testing?*

Unconfirmed reactive results of an FDA-approved rapid test result must be interpreted as a preliminary positive and the patient must be informed that confirmatory testing is necessary.

The meaning of a reactive screening test result must be explained to the patient in simple terms. For example, a negative rapid test result indicates that the person does not have detectable antibodies; however, the person may have been infected too recently for antibody levels to have become detectable.

The importance of taking precautions to prevent transmitting HIV infection to others while awaiting results of confirmatory testing should be stressed to the patient with a reactive screening result. (WAC 246-100-207)

*How will the Board know if the rule changes were effective in achieving the intended purpose?*

The Board has asked the Department of Health to provide a report on the impact of these rule changes about one year after the effective date of the revised rules.

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